

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Small Claims

Property Tax

JOHN W. JR. AND GAIL STARES,)	
)	
Plaintiffs,)	
)	No. 000900F
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION AND JUDGMENT OF DISMISSAL

This matter came before the court on defendant's Motion to Dismiss, made in its Answer filed July 13, 2000, requesting the Complaint be dismissed because the appeal was not timely filed. Gail Stares appeared for plaintiffs. Delberta Beck appeared for defendant. This appeal concerns a residence plaintiffs own and its real market value for tax year 1999-00.

The property is identified in the Multnomah County tax records as account number R236261. No petition was earlier submitted to the County Board of Property Tax Appeals. The first, and only, complaint was filed with the Magistrate Division on June 27, 2000.

COURT'S ANALYSIS

To contest assessed values, taxpayers typically must appeal to their County Board of Property Tax Appeals by December 31 of each tax year. ORS 309.100. Plaintiffs admit they did not timely appeal in the year at issue.

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The legislature has given the court limited authority to consider appeals when the party did not first appeal to the board of property tax appeals. ORS 305.288(1) states:

“The tax court shall order a change or correction * * * to the assessment and tax roll **for the current tax year** * * * if all of the following conditions exist:

“(a) For the tax year to which the change or correction is applicable, the property was or is used primarily as a dwelling * * * .

“(b) The change or correction requested is a change in value for the property for the tax year and it is asserted in the request and determined by the tax court that **the difference between the real market value of the property for the tax year and the real market value on the assessment and tax roll for the tax year is equal to or greater than 20 percent.**”

(Emphasis added.)

Plaintiffs purchased the property in November 1999. Plaintiffs contend the value should be reduced from its \$110,800 current real market value to their purchase price of \$106,000.¹ This would be a reduction of only 4.3%. Plaintiffs do not meet the gross error standard.

Plaintiffs have a second opportunity for the court to be able to hear their appeal. ORS 305.288(3) states:

¹ Plaintiffs expressed some frustration that the court would be unable to correct such "an obvious error" in the subject property's valuation. However, as the court pointed out at the case management conference, the property taxes are based on the property's assessed value. The subject property's assessed value is \$81,620, significantly lower than the assigned real market value of \$110,800. It is highly unlikely that lowering the real market value to \$106,000 would have an effect on the property taxes.

“The tax court may order a change or correction * * * to the assessment or tax roll for the current tax year * * * if, * * * the assessor or taxpayer has no statutory right of appeal remaining and the tax court determines that good and sufficient cause exists for the failure by the assessor or taxpayer to pursue the statutory right of appeal.”

Good and sufficient cause is “an extraordinary circumstance that is beyond the control of the taxpayer[.]” ORS 305.288(5)(b)(A). Further, good and sufficient cause “[d]oes not include inadvertence, oversight, lack of knowledge, hardship or reliance on misleading information provided by any person except an authorized tax official providing the relevant misleading information.” ORS 305.288(5)(b)(B).

Plaintiffs did not purchase the property until November 1999.² Because of the timing of their purchase, plaintiffs did not receive the tax statement mailed to property owners in October. The October statements typically include a separate sheet describing appeal rights to the Board of Property Tax Appeals. Although they own the home they live in and thus received property tax statements relating to it, they were unaware of the appeal deadline as it applied to the subject property. Plaintiffs offered no real reason for their failure to timely appeal the 1999-00 assessed value. Consequently, the court cannot reach the 1999-00 tax year under the good and sufficient cause provision.

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IT IS HEREBY ADJUDGED AND DECREED that the above-entitled matter be dismissed.

Dated this ____ day of August, 2000.

² While it takes no position on the likelihood of success, the court suggests that plaintiffs consider appealing the real market value for tax year 2000-01 to the Board of Property Tax Appeals. Their purchase in November 1999, is very close to the assessment date of January 1, 2000.

SALLY L. KIMSEY
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE SALLY L. KIMSEY ON AUGUST 21, 2000. THE COURT FILED THIS DOCUMENT ON AUGUST 21, 2000.